REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-15 are pending in the application, with claims 1 and 11 being independent.

§ 103 REJECTIONS

Claims 1-15 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,665,729 (Walker) hereinafter Walker, in view of USPA Pub. US 20040001514 A1 (Wookey et al) hereinafter Wookey. Applicant respectfully traverses the rejection.

Independent claim 1 is directed to a computer implemented process, and recites,

> determining a size of a data structure;
> selecting a data streaming protocol when the size exceeds a predetermined limit;
> selecting a buffered data protocol otherwise;
> sending data of the data structure consistent with the selected protocol.

Walker is directed to modified stream-based protocol implementations employed within a network environment to compensate for inefficiencies associated with conventional stream based protocols, such as TCP (see Walker, Abstract). Walker also teaches that characteristics of a transaction-based protocol are advantageously utilized in client/server data transactions to reduce the number of acknowledgment signals sent upon receipt of data, as well as eliminate delays associated with the buffering of data at the server (see Walker, Abstract). The examiner acknowledges that Walker does not teach

bulk data protocol, which the examiner apparently equates to the claim language "a data streaming protocol when the size exceeds a predetermined limit" as claimed in claim 1.

Wookey was cited for its alleged teaching of a "bulk data protocol" (Office Action, page 3). However, Wookey fails to remedy the deficiencies in Walker noted above with respect to claim 1. For example, Wookey fails to disclose or suggest "selecting a data streaming protocol when the size exceeds a predetermined limit; or selecting a buffered data protocol otherwise," as claimed in claim 1. At best, Wookey merely discloses sending two types of information: a short message type and a bulk data type. See Wookey at paragraph **[0296]** on page 20. Thus, Wookey describes two different types of data and does not describe a computer implemented process comprising *selecting between two different protocols*. More particularly, nowhere does Wookey disclose "selecting a data streaming protocol when the size exceeds a predetermined limit; or selecting a buffered data protocol otherwise," as claimed in claim 1.

The office cites in particular paragraph **[0297]** of Wookey for teaching "selecting a data streaming protocol when the size exceeds a predetermined limit." However, the cited portion relates only to the sending of a short message with a bulk data request or other data. Neither the cited portion, nor the reference generally, teaches ***selecting*** a protocol. More particularly, Wookey fails to teach or suggest "selecting a data streaming protocol when the size exceeds a predetermined limit; or selecting a buffered data protocol otherwise,"

The rejection also seems to be based on an interpretation that Walker teaches one protocol, a buffered data protocol, and that Wookey teaches another data protocol, a bulk data transfer protocol. Assuming for the sake of argument that this interpretation is

correct, of which no concession is made, neither Walker nor Wookey teach selecting between a "data streaming protocol" and a "buffered data protocol." Moreover, neither reference suggests combination with the other reference, nor does either reference suggest that a data protocol should be selected based on a predetermined limit.

Applicant submits a person of ordinary skill in the art would have no motivation to combine the teachings of Smith with Jones because neither reference expresses a reason to combine the teachings of these references, either explicitly or implicitly. The Office asserts, citing paragraph **[0007]** of Wookey, that it would have been obvious to one skilled in the art at the time of the invention to have combined the teachings of the cited references because Wookey's teachings would have allowed Walker's method to eliminate the confusing issue of which services to use, why the services are different and to facilitate the user with a single integrated service by the service provider. However, there is no mention in either of the cited references that a person following the teachings of Walker would have been confused. In fact, adding multiple protocols would appear to make the teachings of Walker more confusing, not less.

Thus, Walker and Wookey, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose or suggest the features of claim 1. Additionally, a person of ordinary skill in the art would have no motivation to combine the cited references. Accordingly, as discussed during the interview, independent claim 1 is allowable.

Dependent claims 2-10 depend from independent claim 1 and are allowable by virtue of this dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim.

Independent claim 11 recites:

> 11. (Previously Presented) A computing system for handling messages comprising:
> means for processing data from memory;
> means for determining a size of a data structure;
> means for selecting a data streaming protocol when the size exceeds a predetermined limit;
> means for selecting a buffered data protocol when the size does not exceed the predetermined limit;
> means for sending data of the data structure utilizing the selected protocol.

As mentioned above, Walker is directed to modified stream-based protocol implementations employed within a network environment to compensate for inefficiencies associated with conventional stream based protocols, such as TCP (see Walker, Abstract). However, the examiner acknowledges that Walker does not teach bulk data protocol, which the examiner apparently equates to "a data streaming protocol when the size exceeds a predetermined limit" as claimed in claim 1.

Wookey was cited for its alleged teaching of a "bulk data protocol" (Office Action, page 3). However, Wookey fails to remedy the deficiencies in Walker. For example, Wookey fails to disclose or suggest "a means for selecting a data streaming protocol when the size exceeds a predetermined limit; means for selecting a buffered data protocol when the size does not exceed the predetermined limit," as claimed in claim 1. At best, Wookey merely discloses sending two types of information: a short message type and a bulk data type. See Wookey at paragraph **[0296]** on page 20. Thus, Wookey describes two different types of data and does not describe a means for selecting between two protocols: a data streaming protocol and a buffered data protocol. More particularly, nowhere does Wookey disclose "a means for selecting a data streaming protocol when

the size exceeds a predetermined limit; means for selecting a buffered data protocol when the size does not exceed the predetermined limit," as claimed in claim 1.

Thus, Walker and Wookey, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose or suggest the features of claim 11. Accordingly, as discussed during the interview, independent claim 11 is allowable.

Dependent claims 12-15 depend from independent claim 11 and are allowable by virtue of this dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim.

CONCLUSION

For at least the foregoing reasons, claims 1-15 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance.

If any issue remains unresolved that would prevent allowance of this case, **Applicant requests that the Examiner contact the undersigned attorney to resolve the issue**.

Respectfully submitted,

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